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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,160	03/10/2006	Olaf Kersten	1179 033	4000
20874 7590 07/28/2008 MARIAMA MULDOON BLASIAK & SULLIVAN LLP 250 SOUTH CLINTON STREET SUITE 300 SYRACUSE, NY 13202				
EXAMINER NICHOLS IL ROBERT K				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
07/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,160

Applicant(s)

KERSTEN, OLAF

Examiner

ROBERT K. NICHOLS II

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 02/08/2005 06/13/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

Reference characters "9" and "10" have both been used to designate an appendage.

Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "9" and "10" have both been used to designate an appendage. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-25 and 27-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geier et al. (US 5,630,530) in view of Strassmann (US 6,127,009).

Regarding claims 21, 25, 29, 31, 36-38 and 41, Geier discloses a discharge valve including a sack or bag 24 of flexible film material, wherein the sack is bonded in a border area in two superimposed layers. Geier further discloses a receptacle body or delivery nozzle 58 wherein portion 34 is bonded in the border area between the two layers of the film material (see figure 2, column 5, lines 27-30 and abstract).

Furthermore, Geier discloses the sack being able to be placed into a container 22 through an opening 23 which is closable by a valve cap or lid 25 whereby the valve cap 25 holds a valve stem 14 with a valve needle or discharge nozzle 18 which is axially movable out of a closed position against the force of an elastic element or coil spring 20 (column 3, lines 53-65 and column 4, lines 25-31).

Geier further discloses a valve stem or valve body 14 which is made of a synthetic material that is essentially impermeable to organic media and includes a tubular section, the receptacle body 58 having a tubular appendage 44 and the valve stem 14 having a receptacle as a counterpart, in order to connect the receptacle body and valve stem with each other using a clamp connection (see figure 2, column 2, lines 26-34 and column 4, lines 52-60).

Geier additionally discloses a gasket or sealing ring 32 having a shape of a flat ring arranged between the receptacle body and valve stem, wherein the gasket 32 at least partially covers the frontal or bearing surface 40 of the receptacle body 58 on its side facing the valve stem 14 (see figure 2 and column 4 lines 61-67).

Regarding claim 22, Geier discloses the appendage 44 having a tubular section with a widened end section (see figure 2 and column 4, lines 52-60).

Regarding claim 23, Geier discloses the end section narrows in a truncated shape towards its free end (see figure 2).

Regarding claim 24, Geier discloses the receptacle of the valve stem 14 to have a step in its opening section that reduces the diameter (see figure 2 and column 4, lines 52-60).

Regarding claim 27, Geier discloses a circumferential tapered ring on the side of the receptacle body 58 facing the valve stem 14 (see figure 2 and column 4, lines 52-60).

Regarding claim 28, Geier discloses the receptacle body 58 to have a tapered-oval cross section 44, whose tips point to the bonding seam 46 of the sack (see figure 2 and column 4, lines 12-20).

Regarding claim 30, Geier discloses all the elements of the claimed invention except the appendage being formed on the valve stem and the receptacle being provided with the receptacle body.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the valve stem with the appendage and the receptacle body with the receptacle, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167

Regarding claim 32, Geier discloses the film material is coated on its bonded side with at least one of PE, PET and PP (see column 4, lines 12-17, column 5, lines 27-30 and abstract).

Regarding claim 33, Geier discloses the receptacle body 58 nozzle surface to be made out of one of PBT, PE and PP (column 3, lines 18-25).

Regarding claim 34, Geier discloses the receptacle body 58 and the bonded side of the film material to be made out of one of the following material combinations: PBT and PET, PE and PE, and PP and PP (column 3, lines 18-25 and column 4, lines 12-20).

Regarding claim 35, Geier discloses the valve housing to be made out of POM (column 3, lines 18-25).

Regarding claims 39 and 40, Geier discloses all the elements of the claimed invention except for the width of the welding seams on the sack being at least 5mm and being approximately 10 to 14mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sack of the Geier device with welding seams on the sack having a width being at least 5mm and being approximately 10 to 14mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

With further regards to claim 21, 28, 32, 34, 36, 39 and 40, Geier discloses the present invention with the exception of welding being used as the means of bonding.

Strassmann teaches a dispensing unit having a flexible bag bonded to a body by means of welding, in order to form a tight sealing seam that is durable under thermal conditions (see figure 2, column 5, lines 50-54 and column 6, lines 7-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide welding as the bonding means in the device of Geier, as taught by Strassmann, in order to provide a tight sealing seam that is durable under thermal conditions.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geier et al. (US 5,630,530) in view of Strassmann (US 6,127,009), as applied to claim 25 above, and further in view of Diamond et al. (US 5,630,530).

Regarding claim 26, the combination device of Geier and Strassmann discloses a gasket, but fails to disclose the gasket being made of a flexible material, preferably out of BUNA.

Diamond discloses a pressurized container having a gasket 9 interposed between two members to ensure proper sealing. The gasket 9 is made of compressible material such as a soft plastic or rubber, typically rubber such as BUNA to increase storage stability (column 5, lines 1-12, 32-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the gasket of the combination device of Geier

and Strassmann with a flexible material preferably BUNA, as taught by Diamond, in order to provide a proper seal and increase storage stability.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wiegner et al (US 5,167,347), Yquel (US 2002/0185501), Schiefer (US 2006/0243741), Salemm (US 2006/0124663), Granacher et al. (US 2005/0284883), Hunter (US 2004/0251272) and Gobbers et al. (US 2004/0065678) show other discharge valves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert K Nichols II/
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art
Unit 3754